

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**HAROLD E. SYKES**

**PLAINTIFF**

**V.**

**NO. 1:10CV194-A-S**

**LINDA BEILCHAM, et al.**

**DEFENDANTS**

**ORDER**

Upon consideration of the file and records in this action, the court finds that the Report and Recommendation of the United States Magistrate Judge dated June 29, 2011, was on that date duly served by mail upon Plaintiff at his last known address; that more than fourteen days have elapsed since service of the Report and Recommendation; and that no objection to the Report and Recommendation has been served or filed by any party. The court is of the opinion that the Magistrate Judge's Report and Recommendation should be approved and adopted as the opinion of the court.

Also before the court, is Lee County Sheriff's Department's motion to dismiss. The Defendant argues that it is not a proper party to 1983 actions because it does not enjoy a separate legal identity from that of the County. The Defendant is correct. Under Mississippi Law, the Sheriff's Department is not subject to suit. *See Whiting v. Tunica County Sheriff's Dept.*, 222 F. Supp. 2d 809 (N.D. Miss. 2002). Therefore, it is

**ORDERED:**

1) the Report and Recommendation (docket entry 20) of the United States Magistrate Judge dated June 29, 2011, is hereby APPROVED and ADOPTED as the opinion of the court;

2) the Plaintiff's claims regarding overcharging for medial services and sleeping on the floor and a gurney are DISMISSED;

3) the Plaintiff's claim arising out of the quality of the food at the Lee County Jail shall proceed;

4) the Defendant's motion to dismiss (docket entry 31) is GRANTED; and

5) Lee County Sheriff's Department is DISMISSED from this matter.

THIS the 4th day of August, 2011.

/s/ Sharion Aycock  
U.S. DISTRICT JUDGE